

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

.....
In the Matter of:)
)
Sermatech International, Inc.)
1566 Medical Drive)
3rd Floor, Suite 300)
Pottstown, PA 19464)
)
)
Respondent)
.....

ORDER RELATING TO SERMATECH INTERNATIONAL, INC.

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") having notified Sermatech International ("Sermatech"), of its intention to initiate an administrative proceeding against Sermatech pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) ("Regulations"),¹ and Section 13(e) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) ("Act"),² by issuing a proposed charging letter to Sermatech that alleged that Sermatech, committed five violations of the Regulations. Specifically, the charges are:

1. *Five Violations of 15 C.F.R. § 764.2(a) - Exporting Technology Without the*

.....
¹ The charged violations occurred in 2002, 2003, and 2004. The Regulations governing the violations at issue are found in the 2002, 2003, and 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002-2004)). The 2005 Regulations set forth the procedures that apply to this matter.

² Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 2, 2005, (70 *Fed. Reg.* 45273 (August 5, 2005)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701 - 1706 (2000)) ("IEEPA")

Required Department of Commerce Licenses: On five occasions, from on or about July 9, 2002, to on or about February 2, 3004, Sermatech engaged in conduct prohibited by the Regulations by exporting technical data regarding coating, brazing and repair welding on components of gas turbine engines, technology subject to the Regulations (ECCN³ 2E003 and ECCN 9E003), to its South Korean joint venture Sermatech Korea Ltd., without obtaining the Department of Commerce licenses required by Section 742.4 of the Regulations.

WHEREAS, BIS and Sermatech have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$17,500 is assessed against Sermatech, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

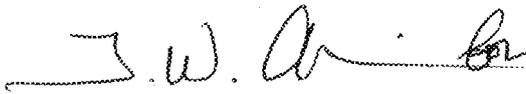
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Sermatech will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

³ The term "ECCN" refers to an Export Control Classification Number. See Part 772.1 of the Regulations.

THIRD, that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Sermatech. Accordingly, if Sermatech should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Sermatech's export privileges under the Regulations for a period of one year from the date of entry of this Order.

FOURTH, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.


Wendy L. Wysong
Deputy Assistant Secretary of Commerce
for Export Enforcement

Entered this 27th day of September, 2005.

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

.....
In the Matter of:)
)
Sermatech International, Inc.)
1566 Medical Drive)
3rd Floor, Suite 300)
Pottstown, PA 19464)
)
..... Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Sermatech International, ("Sermatech"), and the Bureau of Industry and Security, U.S. Department of Commerce ("BIS") (collectively referred to as "Parties"), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) ("Regulations"),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) ("Act"),²

WHEREAS, Sermatech filed a voluntary self-disclosure with BIS's Office of Export Enforcement in accordance with Section 764.5 of the Regulations concerning the transactions at issue herein;

.....
¹ The charged violations occurred in 2002, 2003, and 2004. The Regulations governing the violations at issue are found in the 2002, 2003, and 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002-2004)). The 2005 Regulations set forth the procedures that apply to this matter.

² Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 2, 2005, (70 Fed. Reg. 45273 (August 5, 2005)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) ("IEEPA").

WHEREAS, BIS has notified Sermatech of its intention to initiate an administrative proceeding against Sermatech, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a proposed charging letter to Sermatech that alleged that Sermatech committed five violations of the Regulations, specifically:

1. *Five Violations of 15 C.F.R. § 764.2(a) - Exporting Technology Without the Required Department of Commerce Licenses:* On five occasions, from on or about July 9, 2002, to on or about February 2, 2004, Sermatech engaged in conduct prohibited by the Regulations by exporting technical data regarding coating, brazing and repair welding on components of gas turbine engines, technology subject to the Regulations (ECCN³ 2E003 and ECCN 9E003), to its South Korean joint venture Sermatech Korea Ltd., after the expiration of a Department of Commerce export license without obtaining the additional Department of Commerce license required by Section 742.4 of the Regulations.

WHEREAS, Sermatech has reviewed the proposed charging letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true;

WHEREAS, Sermatech fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if she approves this Agreement as the final resolution of this matter;

³ The term "ECCN" refers to an Export Control Classification Number. See Part 772.1 of the Regulations.

WHEREAS, Sermatech enters into this Agreement voluntarily and with full knowledge of its rights;

WHEREAS, Sermatech states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, Sermatech neither admits nor denies the allegations contained in the proposed charging letter;

WHEREAS, Sermatech wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Agreement; and

WHEREAS, Sermatech agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Sermatech, under the Regulations, in connection with the matters alleged in the proposed charging letter.

2. The following sanction shall be imposed against Sermatech in complete settlement of the violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:

- a. Sermatech shall be assessed a civil penalty in the amount of \$17,500 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.
- b. The timely payment of the civil penalty agreed to in paragraph 2.a. is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Sermatech. Failure to make timely payment of the civil penalty set forth above shall result in the

denial of all of Sermatech's export privileges under the Regulations for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Sermatech hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$17,500 civil penalty, BIS will not initiate any further administrative proceeding against Sermatech in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

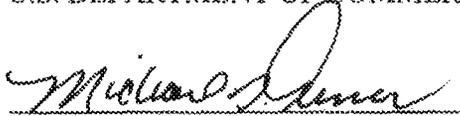
6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U. S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on BIS only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE



Michael D. Turner
Director
Office of Export Enforcement

Date: 09/26/2005

SERMATECH INTERNATIONAL, INC.



William J.S. Wilkins
President

Date: September 15, 2005

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Sermatech International
1566 Medical Drive
3rd Floor, Suite 300
Pottstown, PA 19464

Attn: *William Wilkins,*
President

Dear Mr. Wilkins:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that Sermatech International Inc. (hereafter "Sermatech") of Pottstown, Pennsylvania, has committed five violations of the Export Administration Regulations (the "Regulations"),¹ which are issued under the authority of the Export Administration Act of 1979 (the "Act").² Specifically, BIS charges that Sermatech committed the following violations:

Charges 1 – 5 15 C.F.R. § 764.2(a): Exporting Technology Without the Required Department of Commerce Licenses:

On five occasions, from on or about July 9, 2002, to on or about February 3, 2004, Sermatech engaged in conduct prohibited by the Regulations by exporting technical data regarding coating, brazing and repair welding on components of gas turbine engines, technology subject to the Regulations (ECCN³ 2E003 and ECCN 9E003), to its South Korean joint venture Sermatech Korea Ltd., after the expiration of a Department of Commerce export license without obtaining

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2005). The charged violations occurred in 2002, 2003, and 2004. The Regulations governing the violations at issue are found in the 2002, 2003, and 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002-2004)). The 2005 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 6, 2004 (69 Fed. Reg. 48763 (August 10, 2004)), has continued the Regulations in effect under the IEEPA.

³ The term "ECCN" refers to an Export Control Classification Number. See Part 772.1 of the Regulations.

the additional Department of Commerce license required by Section 742.4 of the Regulations. In so doing, Sermatech committed five violations of Section 764.2(a) of the Regulations.

* * * *

Accordingly, Sermatech is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of \$11,000 per violation;

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Sermatech fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. *See* 15 C.F.R. §§ 766.6 and 766.7. If Sermatech defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Sermatech. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

Sermatech is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. Sermatech is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should Sermatech have a proposal to settle this case, Sermatech or its representative should transmit it to the attorney representing BIS named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Sermatech's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street
Baltimore, Maryland 21202-4022

In addition, a copy of Sermatech's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: James C. Pelletier, Esq.

Sermatech
Proposed Charging Letter
Page 3 of 3

Room H-3839
United States Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

James C. Pelletier is the attorney representing BIS in this case; any communications that Sermatech may wish to have concerning this matter should occur through him. Mr. Pelletier may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael D. Turner
Director
Office of Export Enforcement